

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT of INDIANA
Indianapolis Division

FILED**08/17/2023**

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

JOEY KIMBROUGH,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY AKA
AMERICAN EXPRESS NATIONAL
BANK;

and

TRANS UNION LLC (*settled and
dismissed*)

Defendants.

Case No. 1:22-cv-1993-TWP-MJD

Honorable Tanya Walton Pratt
Magistrate Judge Mark J. Dinsmore

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S EXHIBITS B1 -B5

COMES NOW, Joey Kimbrough, Plaintiff Pro Se, pursuant to Local Rule 7-1(c)(3)(A), in the above-entitled and numbered cause, and files this Response in Opposition to Exhibits B1 - B5 presented by the Defendant, and in support thereof would respectfully show the Court the following:

I. INTRODUCTION

The Plaintiff contests the legitimacy and implications of the purported Exhibits B1 - B5. These exhibits suggest that the Defendant, American Express, was reporting business accounts on Joey Kimbrough's personal credit profile, potentially in violation of federal law.

II. ARGUMENTS AND AUTHORITIES

A. Violation of 15 USC 1681

1. 15 USC 1681, part of the Fair Credit Reporting Act ("FCRA"), requires that credit reporting agencies adopt reasonable procedures to meet the needs of commerce for consumer credit, personnel, insurance, and other information in a manner that is fair and equitable to the consumer. The mixing of business and personal credit reports is contrary to this aim.
2. Exhibits B2, B3, and B5 indicate business accounts – namely, "JMC AUTO WORKS LLC," "BURNETTS TIPTON LLC," and "BURNETT'S NORTH LLC" – which were reportedly associated with Joey Kimbrough's personal credit profile. Such a reporting practice, especially without clear disclosure or consent, is misleading and can have material impacts on the individual's creditworthiness.

B. Distinct Nature of Business and Personal Credit

1. Business credit and personal credit are distinctly separate entities. Combining them without explicit permission or disclosure can lead to financial implications for the individual and misrepresentation of their personal financial health.
2. Creditors, lenders, and other entities rely on clear demarcations between personal and business credit to make informed decisions. The blending of these can lead to erroneous decisions based on inaccurate information.

C. Potential Harm to Joey Kimbrough

1. By merging business and personal credit reports, the Defendant may have negatively impacted Joey Kimbrough's personal credit score, leading to potential higher interest rates, denied credit, or other financial disadvantages.
2. The emotional and mental strain of navigating the complications arising from such reporting errors cannot be understated.

D. Absence of Clear Disclosure or Consent

1. There is no evidence provided in Exhibits B1 - B5 that Joey Kimbrough gave explicit consent or was clearly informed that his business credit activities would be reported on his personal credit profile.
2. The Defendant's potential failure to obtain such consent or provide clear disclosure is concerning and may suggest negligence or willful misconduct.

III. CONCLUSION

The Exhibits B1 - B5, when viewed in their entirety, raise serious concerns about the Defendant's reporting practices and potential violations of federal law. Given the implications of such actions on Joey Kimbrough's personal financial standing and the potential breach of the FCRA, these exhibits should not be used in the Defendant's favor.

Therefore, Joey Kimbrough respectfully requests that the Court consider the issues raised herein when assessing the Defendant's assertions based on Exhibits B1 - B5.

Respectfully Submitted,

/s/ Joey Kimbrough
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Certificate of Service

I hereby certify that on August 17th, 2023, I electronically filed the foregoing with the Clerk of the Court by email with attachments as is required by the Court. Service was made on counsel by email:

Distribution:

All ECF-registered counsel of record via email

Joey Kimbrough
1712 Candy Court South
Kokomo, IN 46902

Respectfully Submitted,
/s/ Joey Kimbrough